U.S. Department of Justice

Immigration and Naturalization Service

B7

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

Public Copy

JAN 10 2001

File: A74 641 444 Office: Texas Service Center Date:

IN RE: Petitioner: [redacted]

Petition: Immigrant Petition by Alien Entrepreneur Pursuant to § 203(b)(5) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(5)

IN BEHALF OF PETITIONER:

[redacted]

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Mary C. Mulrean, Acting Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Texas Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks classification as an alien entrepreneur pursuant to § 203(b)(5) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(5). The director determined that the petitioner had not demonstrated that he had invested, or was in the process of investing, $1,000,000 of capital. The director also found that the petitioner had failed to create a new commercial enterprise. The director further concluded that the petitioner had failed to show that he had met the employment-creation requirement.

On appeal, the petitioner contends that he has invested in three corporations which are now worth $1,500,000 and that he has created 13 new jobs. He submits a list of employees for each of the businesses in which he has allegedly invested, incomplete I-9s for those listed employees, and cashier and cancelled personal checks from the petitioner.

Section 203(b)(5)(A) of the Act provides classification to qualified immigrants seeking to enter the United States for the purpose of engaging in a new commercial enterprise:

> (i) which the alien has established,
>
> (ii) in which such alien has invested (after the date of the enactment of the Immigration Act of 1990) or, is actively in the process of investing, capital in an amount not less than the amount specified in subparagraph (C), and
>
> (iii) which will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the immigrant and the immigrant's spouse, sons, or daughters).

The petitioner indicates that the petition is based on the establishment of new commercial enterprises which are not located in targeted employment areas. Therefore, the amount of capital necessary to make a qualifying investment in this matter is $1,000,000.

ESTABLISHMENT OF A NEW COMMERCIAL ENTERPRISE

8 C.F.R. 204.6(j)(1) states, in pertinent part, that:

To show that a new commercial enterprise has been established by the petitioner in the United States, the petition must be accompanied by:

(i) As applicable, articles of incorporation, certificate of merger or consolidation, partnership agreement, certificate of limited partnership, joint venture agreement, business trust agreement, or other similar organizational document for the new commercial enterprise;

(ii) A certificate evidencing authority to do business in a state or municipality or, if the form of the business does not require any such certificate or the State or municipality does not issue such a certificate, a statement to that effect.

8 C.F.R. 204.6(e) states, in pertinent part, that:

Commercial enterprise means any for-profit activity formed for the ongoing conduct of lawful business including, but not limited to, a sole proprietorship, partnership (whether limited or general), holding company, joint venture, corporation, business trust, or other entity which may be publicly or privately owned. This definition includes a commercial enterprise consisting of a holding company and its wholly-owned subsidiaries, provided that each such subsidiary is engaged in a for-profit activity formed for the ongoing conduct of a lawful business. This definition shall not include a non-commercial activity such as owning and operating a personal residence.

8 C.F.R. 204.6(h) states that the establishment of a new commercial enterprise may consist of:

(1) The creation of an original business;

(2) The purchase of an existing business and simultaneous or subsequent restructuring or reorganization such that a new commercial enterprise results; or

(3) The expansion of an existing business through the investment of the required amount, so that a substantial change in the net worth or number of employees results from the investment of capital. Substantial change means a 40 percent increase either in the net worth, or in the number of employees, so that the new net worth, or number of employees amounts to at least 140 percent of the pre-expansion net worth or number of employees. Establishment of a new commercial enterprise in this

> manner does not exempt the petitioner from the requirements of 8 C.F.R. 204.6(j)(2) and (3) relating to the required amount of capital investment and the creation of full-time employment for ten qualifying employees. In the case of a capital investment in a troubled business, employment creation may meet the criteria set forth in 8 C.F.R. 204.6(j)(4)(ii).

On the Form I-526, the petitioner stated that the new commercial enterprise in question included three corporations, Sardinia, Inc. (which does business as Market Ace #3 and Market Ace #4), Roohi, Inc. (which does business as Market Ace #1), and Meloj, Inc. (which does business as [redacted] / Market Ace #2). The petitioner further indicated the businesses were convenience stores and gas stations.

The petitioner submitted a July 22, 1994 agreement in which The [redacted] Inc. agrees to allow the reassignment of all rights to operate the four convenience stores which are currently being leased by [redacted] In addition, the business summaries indicate that [redacted] #2 and #4 were established 10 years prior to being purchased. (The business summary for [redacted] #1 is incomplete regarding when it was established and the petitioner did not submit a business summary for [redacted] #3.) As such, the stores acquired by the petitioner's alleged corporations all appear to have been existing businesses at the time of acquisition, and the petitioner has failed to show how he has made them "new" pursuant to 8 C.F.R. 204.6(h)(2) or (h)(3).

The petitioner has not documented or even alleged a simultaneous or subsequent restructuring or reorganization such that a new commercial enterprise resulted from his purchase of the existing businesses. As such, in order to demonstrate the creation of a new commercial enterprise, the petitioner must demonstrate that he expanded the existing businesses which he purchased.

Regarding the expansion of an existing business, 8 C.F.R. 204.6(j)(1)(3) requires:

> Evidence that, as of a date certain after November 29, 1990, the required amount of capital for the area in which an enterprise is located has been transferred to an existing business, and that the investment has resulted in a substantial increase in the net worth or number of employees of the business to which the capital was transferred. This evidence must be in the form of stock purchase agreements, investment agreements, certified financial reports, payroll records, or any similar instruments, agreements, or documents evidencing the investment in the commercial enterprise and the resulting substantial change in the net worth, number of employees.

[redacted]

The Earnest Money Contract, dated June 20, 1994, indicates the total purchase price for all four businesses together was $365,000 plus no more than $120,000 for inventory. The agreement further provides that the seller shall deliver to buyer a valid lease or assignment of lease for a period of five years. The business summary for [redacted] #4 (owned by Sardinia, Inc.) indicates the purchase price for [redacted] #4 was $85,000 plus inventory. There is no business summary indicating the purchase price for [redacted] #3, also owned by Sardinia, Inc. On February 27, 1998 [redacted], Inc. purchased the land on which [redacted] #4 is located for $434,251.79.

The appraisal indicates the worth of the *property* located at 520 West Florida is $440,000. The bank letter indicates the worth of Sardinia, Inc., including Market Ace #3 and #4, is $450,000. The petitioner has not provided any balance sheets demonstrating the net worth of the *business* prior to the petitioner's purchase of that business.

The petitioner has not shown that Market Ace #3 or Market Ace #4 has expanded 40%. Market Ace #4 as a business was purchased for $85,000 in 1994. The petitioner has not provided any documentation regarding the net worth of the *business* prior to the petitioner's purchase of the business and currently. Sardinia, Inc. subsequently purchased the land on which Market #4 is located for $434,000. The appraisal submitted indicates that the property is now worth $440,000. However, the definition of expansion set forth at 8 C.F.R. 204.6(h)(3) relates to an increase in net worth or number of employees. Property value alone is not the measure of a business's net worth.

The petitioner has not provided a separate appraisal of the net worth of Market Ace #3. However, the total purchase price for Market Ace #1, #2, #3, and #4 was $365,000. The business summaries for Market Ace #1, #2, and #4 indicate the purchase prices for those businesses totaled $215,000. Therefore, it can be deduced that the purchase price for Market Ace #3 was $150,000. Regardless, the purchase price does not necessarily reflect the net worth of the business. Even if it did, the bank letter indicates that the net worth of Sardinia, Inc., which includes Market Ace #3 and #4 is $450,000. The official appraisal indicates the worth of Market Ace #4 is $440,000. Therefore, the record does not establish that Market Ace #3 is worth more than $10,000. As such, the petitioner has not demonstrated an expansion of at least 40%.

[redacted]

The business summary indicates Market Ace #1, owned by [redacted] was purchased for $60,000 plus inventory. The bank letter

indicates it is now worth $150,000. While those numbers appear to represent a more than 40% increase in net worth, without a detailed explanation of the appraisal the petitioner cannot establish all of the considerations which went into the appraisal and whether it includes the value of the property which Roohi, Inc. does not appear to own as the record contains a lease agreement. Furthermore, the sales price does not include inventory and the claimed net worth provided in the bank letter does not indicate that inventory is excluded. Finally, as stated above, the purchase price may not represent the net worth of the business at the time of purchase. The petitioner has not provided a balance sheet reflecting the net worth of Roohi, Inc. at the time of purchase.

[redacted]

The business summary indicates Market Ace #2, owned by [redacted] was purchased for $70,000 plus inventory. On July 26, 1995, [redacted] purchased the inventory, furniture, fixtures, equipment, supplies, and records from the predecessor company, Cheek Markets, Inc. for another $90,000. The bank letter indicates the company is now worth $450,000. The petitioner has provided no explanation for this alleged 181% increase in net worth. Without a detailed explanation for the appraisal the petitioner cannot establish all of the considerations which went into the appraisal and whether it includes the value of the property which Meloj, Inc. does not appear to own as the record contains a lease agreement. Moreover, as stated above, the purchase price may not represent the net worth at the time of purchase. As with the other businesses, the petitioner has not provided a balance sheet reflecting the net worth of Meloj, Inc. at the time of purchase.

The petitioner has not selected any one of the corporations or partnerships as the new commercial enterprise for purposes of this proceeding. He does not claim that any one of the companies by itself fulfills both the investment and employment-creation requirements, and therefore, on its face, the petition must be denied.

INVESTMENT OF CAPITAL

8 C.F.R. 204.6(e) states, in pertinent part, that:

> *Capital* means cash, equipment, inventory, other tangible property, cash equivalents, and indebtedness secured by assets owned by the alien entrepreneur, provided the alien entrepreneur is personally and primarily liable and that the assets of the new commercial enterprise upon which the petition is based are not used to secure any of the indebtedness. ...

Invest means to contribute capital. A contribution of capital in exchange for a note, bond, convertible debt, obligation, or any other debt arrangement between the alien entrepreneur and the new commercial enterprise does not constitute a contribution of capital for the purposes of this part.

8 C.F.R. 204.6(j) states, in pertinent part, that:

(2) To show that the petitioner has invested or is actively in the process of investing the required amount of capital, the petition must be accompanied by evidence that the petitioner has placed the required amount of capital at risk for the purpose of generating a return on the capital placed at risk. Evidence of mere intent to invest, or of prospective investment arrangements entailing no present commitment, will not suffice to show that the petitioner is actively in the process of investing. The alien must show actual commitment of the required amount of capital. Such evidence may include, but need not be limited to:

(i) Bank statement(s) showing amount(s) deposited in United States business account(s) for the enterprise;

(ii) Evidence of assets which have been purchased for use in the United States enterprise, including invoices; sales receipts; and purchase contracts containing sufficient information to identify such assets, their purchase costs, date of purchase, and purchasing entity;

(iii) Evidence of property transferred from abroad for use in the United States enterprise, including United States Customs Service commercial entry documents, bills of lading and transit insurance policies containing ownership information and sufficient information to identify the property and to indicate the fair market value of such property;

(iv) Evidence of monies transferred or committed to be transferred to the new commercial enterprise in exchange for shares of stock (voting or nonvoting, common or preferred). Such stock may not include terms requiring the new commercial enterprise to redeem it at the holder's request; or

(v) Evidence of any loan or mortgage agreement, promissory note, security agreement, or other evidence of borrowing which is secured by assets of the petitioner, other than those of the new commercial enterprise, and

for which the petitioner is personally and primarily liable.

The Earnest Money Contract reveals that the purchase price for all four businesses was $365,000 plus inventory not to exceed $120,000. However, while the Earnest Money Contract refers to "seller" and "buyer" it does not identify those parties. While the document appears to be signed by the petitioner, the signature on the purchaser line appears to have been altered before the document was photocopied. In addition, the document is not signed by the seller.

In a letter dated July 22, 1994, [redacted] President of The [redacted] Inc, states that the petitioner and [redacted] are purchasing the stores from [redacted] This letter is signed by [redacted], the petitioner, Mr. [redacted], and [redacted]. The petitioner also submits two cashier's checks, one for $55,000 and another for $70,000 issued with [redacted] as the remitter. The petitioner submits a letter from [redacted] asserting that the funds belonged to the petitioner but the checks were drafted on [redacted] personal account for "banking convenience." [redacted] asserts that while he is the petitioner's business partner and the president of Roohi, Inc. and Sardinia, Inc. because of his own lawful status in the United States, the businesses were purchased with only the petitioner's funds. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. Matter of Treasure Craft of California, 14 I&N Dec. 190 (Reg. Comm. 1972).

The petitioner has submitted a cashier's check receipt suggesting that he paid $20,000 to Willis Investments on June 27, 1994 and another check for $20,000 issued on his account to Willis Investment Company dated June 20, 1994. The record indicates that Willis Investments was the title company which handled the sales transaction for the four stores. However, the petitioner did not submit relevant bank statements for himself or documentation from Willis Investment Company establishing that both checks were deposited with Willis Investment Company. The petitioner did not submit a copy of the back of the June 20, 1994 check; therefore, there is no evidence that that check was actually cashed. Moreover, as the checks were issued to Willis Investments, and not the seller, the petitioner has not established that the funds were invested in the purchased businesses, and not used to pay other costs, such as closing costs.

The petitioner also submits stock certificates indicating he owns 900 of 1,000 no par value shares of Sardinia, Inc., 900 of 1,000 no par value shares of Roohi, Inc., and 110 of 1,000,000 $1.00 par value shares of Meloj, Inc. The petitioner does not, however, submit bank statements or cancelled checks which would reflect the

amount of cash invested in exchange for these stock certificates.

The subsequent purchase of the land on which Market Ace #4 operates was purchased by Sardinia, Inc., not the petitioner, and the petitioner has not submitted any documentation to establish that his own personal funds were used in that transaction.

In response to the director's request for additional information, the petitioner submitted several checks, copies of bills and invoices, and promissory notes. On appeal, the petitioner submits additional cancelled checks.

The bills and invoices do not reveal that the petitioner personally financed the payment of the utility bills or that he purchased equipment out of his own funds, as opposed to corporate funds. As such, these documents cannot establish the investment of capital.

The petitioner submits a letter from Capital Bank regarding four loans and two of the relevant promissory notes. These documents reveal that on February 27, 1998, [redacted] received a loan of $340,000 from Capital Bank. The loan was secured by a separate Security Agreement which provides that the debtor is [redacted] Inc., and that the collateral for the debt is the inventory and equipment of the debtor. The security agreement does not provide that the personal assets of the petitioner are at risk. On May 11, 1995, Roohi, Inc. obtained a loan of $175,000 from Capital Bank. This loan is secured by all inventory, equipment, accounts receivable, furniture, fixtures, and general intangibles now owned or hereafter acquired by [redacted] Inc. doing business as Market Ace #1 and [redacted] Inc. doing business as Market Ace #3 and Market Ace #4. Once again, this loan is not secured by the petitioner's assets. The other two loans referenced in the bank letter are not documented in the record. Therefore, the petitioner has not established that those loans were secured with his personal assets. In order to qualify as capital, a loan must be secured by the assets of the petitioner. See 8 C.F.R. 204.6(e), Matter of Soffici, I.D. 3359 (Assoc. Comm. Examinations, June 30, 1998) at 6.

The petitioner has also submitted two promissory notes dated July 20, 1994, in which Roohi, Inc. and [redacted]. each promise to pay the petitioner $35,000 with 8% interest. The petitioner has not established that these promissory notes do not represent the repayment of a loan to the corporations by the petitioner. 8 C.F.R. 204.6(e) provides that a contribution of capital in exchange for a note, bond, convertible debt, obligation, or any other debt arrangement between the alien entrepreneur and the new commercial enterprise does not constitute a contribution of capital for the purposes of this part. See generally, Matter of Izumii, I.D. 3360 (Assoc. Comm. Examinations, July 13, 1998) at 12-15.

Finally, the checks submitted by the petitioner cannot be considered capital. In response to the director's request for additional documentation, the petitioner submitted several checks issued on his own account. The checks are dated as follows: March 24, 1998, issued to Roohi, Inc. for $889; March 21, 1998, issued to Sardinia, Inc. for $14,000; and March 25, 1998, issued to [redacted] Inc. for $2,200. On appeal, the petitioner submitted checks issued [redacted] for $30,000, $10,000, $25,000, $11,500, and $27,000; three checks issued to Cheek Grocery for $5,000 each; checks issued to Roohi, Inc. for $2,288.25, $1,923.25, $899 and another check for $899; and checks issued to Sardinia, Inc. for $1,130, $1,700, $2,000, $2,400, $2,200, and $1,400.

However, the record does not reveal the purpose of these payments to the corporations. The promissory notes discussed above reveal that the petitioner has obtained promissory notes from the corporations previously. The petitioner has not submitted evidence that he purchased new shares of stocks or other evidence which might suggest the contributed funds were, in fact, capital investments. Moreover, these checks still amount to far less than $1,000,000.

Counsel argues that the corporations have been valued at $1,500,000, and that, since the petitioner owns 90% of the corporations, his investment has been over $1,000,000. However, a petitioner must *invest* $1,000,000, not merely invest some undocumented amount in a business of which his percentage may eventually be valued at $1,000,000. Under counsel's argument, a shareholder awarded shares amounting to 10% of the total shares of the corporation *solely* in consideration for services provided would be considered to have "invested" 10% of the value of the corporation. Moreover, the corporate schedule K-1s for 1994, 1995, and 1996 reveal that the petitioner owns only 40% of Roohi, Inc., 50% of Meloj, Inc., and either 20% or 40% of Sardinia, Inc., depending on the year. Going by the net worth valuations provided in the bank letter, the petitioner's share of the corporations, 40% of $15,000, 40% of $450,000, and 50% of $450,000, totals only $465,000.

SOURCE OF FUNDS

8 C.F.R. 204.6(j) states, in pertinent part, that:

> (3) To show that the petitioner has invested, or is actively in the process of investing, capital obtained through lawful means, the petitioner must be accompanied, as applicable, by:
>
> (i) Foreign business registration records;

(ii) Corporate, partnership (or any other entity in any form which has filed in any country or subdivision thereof any return described in this subpart), and personal tax returns including income, franchise, property (whether real, personal, or intangible), or any other tax returns of any kind filed within five years, with any taxing jurisdiction in or outside the United States by or on behalf of the petitioner;

(iii) Evidence identifying any other source(s) of capital; or

(iv) Certified copies of any judgments or evidence of all pending governmental civil or criminal actions, governmental administrative proceedings, and any private civil actions (pending or otherwise) involving monetary judgments against the petitioner from any court in or outside the United States within the past fifteen years.

The petitioner has submitted no personal tax returns, no bank statements, and no evidence of lawful employment. The director specifically requested that the petitioner provide evidence to show the invested funds were obtained lawfully, but the petitioner did include such documentation with his response. In fact, as the petitioner has conceded that he was residing in the United States without lawful status and as he has not provided any evidence that the Service ever granted him authorization to work, any wages resulting from employment in the United States cannot be considered lawfully obtained.

The record contains several large checks issued by different individuals to the petitioner. However, the inquiry into the lawful source of investment funds does not end upon a petitioner's presentation of checks showing the identity of the person who provided the funds to the petitioner. The petitioner has failed to document the source of the money being given to him in these checks and has therefore failed to demonstrate that the funds had originally been obtained lawfully by the payors. Finally, the petitioner has not documented the purpose of these payments. Therefore, the petitioner has not established the lawful nature of the transaction or whether or not this money was actually a loan.

The petitioner has failed to establish that any amounts that he may have invested in any of the businesses that he might select as the commercial enterprise at issue had both belonged to him and been lawfully acquired. For this reason, the petition must be denied.

8 C.F.R. 204.6(g)(1) states, in pertinent part:

The establishment of a new commercial enterprise may be used as the basis of a petition for classification as an

> alien entrepreneur even though there are several owners of the enterprise, including persons who are not seeking classification under section 203(b)(5) of the Act and non-natural persons...*provided that the source(s) of all capital invested is identified and all invested capital has been derived by lawful means.* (Emphasis added.)

The record reveals that there are other shareholders in all of the corporations discussed above. The petitioner has not submitted any evidence that their capital contributions were derived by lawful means.

It therefore cannot be concluded that all of the capital invested in any one of the companies that the petitioner might select as the commercial enterprise has been derived by lawful means. For this reason, the petition must be denied.

EMPLOYMENT CREATION

8 C.F.R. 204.6(e) states that:

> *Troubled business* means a business that has been in existence for at least two years, has incurred a net loss for accounting purposes (determined on the basis of generally accepted accounting principles) during the twelve- or twenty-four month period prior to the priority date on the alien entrepreneur's Form I-526, and the loss for such period is at least equal to twenty percent of the troubled business's net worth prior to such loss. For purposes of determining whether or not the troubled business has been in existence for two years, successors in interest to the troubled business will be deemed to have been in existence for the same period of time as the business they succeeded.

8 C.F.R. 204.6(j)(4)(i) states:

> To show that a new commercial enterprise will create not fewer than ten (10) full-time positions for qualifying employees, the petition must be accompanied by:
>
> (A) Documentation consisting of photocopies of relevant tax records, Form I-9, or other similar documents for ten (10) qualifying employees, if such employees have already been hired following the establishment of the new commercial enterprise; or
>
> (B) A copy of a comprehensive business plan showing that, due to the nature and projected size of the new commercial enterprise, the need for not fewer than ten

(10) qualifying employees will result, including approximate dates, within the next two years, and when such employees will be hired.

8 C.F.R. 204.6(e) states, in pertinent part:

Full-time employment means employment of a qualifying employee by the new commercial enterprise in a position that requires a minimum of 35 working hours per week.

Qualifying employee means a United States citizen, a lawfully admitted permanent resident, or other immigrant lawfully authorized to be employed in the United States including, but not limited to, a conditional resident, a temporary resident, an asylee, a refugee, or an alien remaining in the United States under suspension of deportation. This definition does not include the alien entrepreneur, the alien entrepreneur's spouse, sons, or daughters, or any nonimmigrant alien.

(ii) *Troubled business.* To show that a new commercial enterprise which has been established through a capital investment in a troubled business meets the statutory employment creation requirement, the petition must be accompanied by evidence that the number of existing employees is being or will be maintained at no less than the pre-investment level for a period of at least two years. Photocopies of tax records, Forms I-9, or other relevant documents for the qualifying employees and a comprehensive business plan shall be submitted in support of the petition.

8 C.F.R. 204.6(h)(3) provides that the creation of a new commercial enterprise by expanding an existing business:

does not exempt the petitioner from the requirements of 8 C.F.R. 204.6(j)(2) and (3) relating to the required amount of capital investment *and the creation of full-time employment for ten qualifying employees.* (Emphasis added.)

The petitioner never alleges or documents that at the time of purchase his businesses were troubled businesses as defined in 204.6(e). Therefore, he must document the creation of 10 new jobs.

Counsel asserts that the petitioner employs 13 people. The petitioner has supplied several I-9s, W-4s, and a few Texas Quarterly Reports. The petitioner submits three I-9s purporting to document three employees for Roohi, Inc. One of the I-9s is not signed by the claimed employee and another of the I-9s is for an individual with the same last name as the petitioner. While the

director requested that the petitioner establish his relationship to the employee with the same last name, the petitioner has not done so. Finally, none of the I-9s are completed to indicate that the employee's status in the United States was verified.

The petitioner also submits I-9s and W-4s for seven employees of Meloj, Inc. Once again, the I-9s have not been completed to indicate the employee's status in the United States was verified.

The petitioner submits five I-9s purporting to document five employees of [redacted] Inc., and an additional I-9 which he completed. Again, none of the I-9s have been completed to indicate the employees status in the United States was verified. In fact, the petitioner alleges himself to be a lawful permanent resident on the I-9 which he completed. Such misrepresentation diminishes his overall credibility. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. Matter of Ho, 19 I&N Dec. 582, 591 (BIA 1988).

The Texas Quarterly Reports never show more than two employees at Roohi, Inc., seven employees at [redacted] Inc. (in addition to the petitioner), and 5 employees at [redacted] Inc.

On appeal, the petitioner claims [redacted] Inc. employs six people, Roohi, Inc. employs two people and Sardinia, Inc. employs five people. The petitioner submits 12 supporting I-9s, only three of which are complete.

Even if the Service were to accept that the record demonstrates that the petitioner's businesses employ 10 or more people, the petitioner must demonstrate the creation of at least 10 *new* jobs. The petitioner has submitted absolutely no documentation to establish how many people these businesses employed prior to his alleged purchase of the businesses.

As stated previously, the businesses were all in existence when the petitioner purchased them. The business summaries submitted indicate some of them had been in operation for 10 years prior to the date of purchase. As the petitioner has not demonstrated, or even alleged, that the businesses were troubled businesses, it is the petitioner's burden to demonstrate that he created 10 jobs beyond the jobs which existed when he purchased the businesses. Finally, the petitioner has not submitted a business plan demonstrating that he will create 10 new jobs.

The petitioner failed to satisfy the documentary requirements regarding employment-creation both at the time of filing and in response to the director's request for such evidence. For this reason, the petition must be denied.

The burden of proof in these proceedings rests solely with the petitioner. § 291 of the Act, 8 U.S.C. 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.